

REMARKS

Claims 1 – 28 are pending in the application and stand rejected by the Examiner. Claims 1, 8 – 10, 13 – 15, 22, 24, and 27 – 28 have been amended. Claims 2 and 16 have been canceled. Claims 1, 3 – 15, and 17 – 28 remain in the application and are presented for reconsideration.

Claims 1, 3, 4, 6, 8 – 10, 12 – 15, 17, 18, 22 – 24, and 26 – 28 were objected to because of informalities in these claims. The independent claims 1, 10, 13, 14, 15, 24, 27, and 28 have been amended to replace "wireless device applications" in the preamble with "a wireless device application." The body of each independent claim now refers back to "the wireless device application" recited in the preamble. Claim dependency for claim 9 has been changed to claim 1, which now recites a "determining" step.

Claims 1, 4 – 6, 7, 9, 15, 18 – 21, 23, and 26 were rejected under 35 USC §101 as being directed to non-statutory subject matter. Specifically, these claims were rejected because they do not provide a tangible, concrete output result. In the above list of claims, claims 1 and 15 are independent claims. Claim 1 was amended to recite several of the limitations found in statutory claim 8; therefore, claim 1 is now statutory. Claim 15 is a computer readable medium claim that parallels claim 1. It has been amended to recite several of the limitations found in statutory claim 22; therefore, claim 15 is now statutory. Claims 4 – 6, 7, and 9 depend from amended claim 1; claims 18 – 21 depend from amended claim 15. These dependent claims are now statutory.

Claims 23 and 26 depend from dependent claim 22 which was found statutory. Therefore, claims 23 and 26 are statutory as well and the rejection of these claims on this basis was in error, and should be withdrawn.

Claims 1 – 28 were rejected under 35 USC §102(e) as being anticipated by *Bilange*, U.S. Publication No. 2004/0093595. This rejection is traversed.

In order to support a rejection of a claim under 35 USC § 102(e), it is well-established that “to anticipate, every element and limitation of the claimed invention must be found in a single prior art reference arranged as in the claim.” Brown v. 3M, 265 F. 3d 1349, 60 USPQ 2d 1375 (Fed. Cir. 2001). Such disclosure can be made expressly or inherently in the reference, but such reference “still must describe the claimed invention with sufficient detail to establish that the subject matter existed in the prior art.” Verve LLC v. Crane Cams Inc., 311 F. 3d 116, 65 USPQ 2d 1051 (Fed. Cir. 2002).

The *Bilange* reference does not teach or describe, either expressly or inherently, each and every element and limitation as set forth in Claims 1 – 28, as amended, and thus does not describe, much less anticipate, the claimed invention.

Bilange is directed to a method and system for provisioning and managing registered applications which can be downloaded to a mobile device from an application provisioning server. The "over the air" (OTA) provisioning server takes control from the registered application and performs tasks such as license verification and digital rights management before passing control back to the registered application running on the mobile device (Para. 16). The registered application allows for sending user data such as high scores to the provisioning server. The user of a game application can post his high score to a central leader board that other players can view (Para. 19).

Bilange further teaches that the user can rate an application after it is purchased. The rating can be posted to a server and used to generate popularity statistics (Para. 20). *Bilange* teaches that the system may provide one or more mechanisms that allow users to rate

applications. This can be done after the application terminates where the application is deployed as a registered application. Alternatively, users can rate a registered application when the application is executed online. The application provisioning server may request that users rate applications that they previously downloaded the next time the user browses the application catalog (Para. 57).

Claim 1 has been amended to recite the steps of receiving the rating from the wireless device by the server; determining if a database coupled to the server is storing a previous rating for the wireless device application from the wireless device; and replacing the previous rating with the received rating, if the database is storing the previous rating, to prevent skewing of a composite rating for the wireless device application. Claim 15 is a computer readable medium claim which has been amended in a manner similar to claim 1. The amendments to claims 1 and 15 clarify that a user of a wireless device application on a wireless device can rate an application multiple times, but only the most recent rating is stored for the device/application combination in order to prevent one user's multiple ratings from skewing the composite rating for the application based on ratings provided by multiple users.

Claims 1 and 15 are not anticipated by *Bilange* for at least the reasons that *Bilange* fails to teach or suggest determining if a database coupled to the server is storing a previous rating for the wireless device application from the wireless device, and replacing the previous rating with the received rating, if the database is storing the previous rating, to prevent skewing of a composite rating for the wireless device application.

Claims 3 – 14 and 17 – 23 depend from claims 1 and 15, respectively and are not anticipated for at least the same reasons stated for claims 1 and 15.

The Examiner rejected claims 8 and 22, 10 and 24, 13 and 27, and 14 and 28 using similar rationale for the "determining" and "replacing" limitations in these claims. The Examiner asserted in her rejection that *Bilange's* disclosure of storing a message transmitted from the registered application for later processing, such as for determining the "Top Ten High Scores," is a teaching of replacing the stored application rating with the application rating in the packet transmitted to the server. There is no teaching in *Bilange* of replacing or updating a previous user application rating with a new user application rating to prevent skewing of a composite rating for the user application. The communication flow depicted in Fig. 7 of *Bilange* illustrates the overall process of selecting, downloading, and licensing a registered application, and then subsequently *posting a high score and an application rating* before terminating the web session (Para. 13). The user gets to rate the application and send rating information. In block 715, the server *records* the user's rating information. This information may then be made available via the *application catalog* (Para. 79). However, there is no teaching in *Bilange* that a user can rate an application multiple times, but that only the most recent rating is stored in the database to prevent skewing of a composite rating for the user application.

There is no teaching or suggestion in *Bilange* of retaining the rating for a wireless device application with the wireless device identification. Recording the user's rating information for inclusion in an application catalog is not the same as storing the application rating with a wireless device identifier in a persistent storage that can be replaced with a new rating associated with the same wireless device/identifier. As for storing a high score/rating message for later processing, this teaching in *Bilange* is apparently for the purpose of comparing the high scores from all users of the wireless application and posting a limited number representing the highest scores among all users. The scores that make the top ten list would be saved, but all other

messages containing scores and ratings presumably would be discarded and not saved in a persistent storage database. Furthermore, there would be no reason to store an application rating associated with a specific wireless device once the rating is recorded in the application catalog.

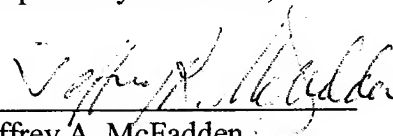
Independent claims 10, 13, 14, 24, 27, and 28 have been amended to change the recitation "current rating" to "previous rating." The change to "previous rating" should clarify that if a rating has been stored previously for the wireless application/wireless device combination, a new, more recent rating received from the wireless device will replace the previous rating in data storage. Thus, a user can reevaluate the rating of an application, such as a game, each time the user runs the wireless application, but only the most recent rating is stored in a database. As the user gains more experience with the wireless application, the user may find the application too easy or too difficult and decide to change a previous rating. *Bilange* fails to teach that the user can rate the application multiple times, but only the most recent rating is stored in the database, i.e., any previous rating is overwritten. Even if the teachings of *Bilange* are interpreted broadly to allow a user of a licensed wireless application to rate the wireless application multiple times from a wireless device, there is no teaching in *Bilange* that determines whether or not the server database has previously stored a rating for the wireless application from the user/wireless device combination, and then replaces the previously stored rating with a new rating to prevent skewing of a composite rating. Therefore, for these reasons, claims 10, 13 – 14, 24, and 27 – 28 are not anticipated by *Bilange*.

Claims 11 and 12 depend from claim 10; claims 25 and 26 depend from claim 24. These claims are not anticipated by *Bilange* for at least the same reasons stated for the corresponding independent claims.

In view of the above remarks, it is submitted that the claim objections and rejections of the Examiner have been properly addressed and that the pending claims are in condition for allowance. Such action at an early date is respectfully solicited. It is also requested that the Examiner contact Applicant's attorney at the telephone number listed below should this response not be deemed to place this application in condition for allowance.

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Respectfully submitted,


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